



Bill Analysis

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Legislative Service Commission

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Reps. Ujvagi, McGregor, Harwood, Book, Perry, Price, Carano, Strahorn, Skindell, Brown, DeGeeter, Collier, Miller, Reidelbach, Mason, Domenick, Sferra, D. Stewart, S. Patton, Allen, Woodard, Distel, Hartnett, Redfern, Barrett, S. Smith, Driehaus, Wilson, Key, DeBose, Yates, Jerse, Schaffer, Seaver, Cirelli, Otterman, Wolpert, Beatty, Hoops, Koziura, Kearns, Olman, C. Evans, Sykes, Flowers, Latta, Fessler, Daniels, Hollister, Cates

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CONTENT AND OPERATION

Overview

The bill makes changes to numerous laws in order to provide protection for and benefits to military personnel and members of their immediate family as follows:

Patriot Discount Card Program

(R.C. 173.09)

In general

(R.C. 173.09(B))

- Requires the Director of Aging to establish a "Patriot Discount Card Program" (Program) and to provide a patriot discount card to any Ohio resident who applies to the Director for a card and who is in "service in the uniformed services" (see "**Definitions**," below).

- Requires the Director to devise programs to provide benefits of any kind to patriot discount card holders, and to encourage support and participation in those programs by all persons, including government organizations.

- Entitles card holders to any benefits granted to them by private persons or organizations, Ohio laws, or ordinances or resolutions of political subdivisions. However, the bill does not require any person or organization to provide benefits to any card holder.

- Requires the Department of Aging to bear all costs of the Program.

Discount cards

(R.C. 173.09(C) and (D))

- Requires the Director, before issuing a patriot discount card to any person, to establish the applicant's identity and to ascertain that the applicant is eligible to be issued the card.

- Requires the Director to adopt rules under the Administrative Procedure Act (1) to prevent the issuance of patriot discount cards to persons who are not qualified to have them and (2) to provide for the proper use of a card by members of the immediate family of a card holder while military duties require the card holder to be outside Ohio.

- Requires patriot discount cards to contain the signature of the card holder and any other information the Director considers necessary to carry out the Program's purposes.

- Requires that patriot discount cards be held in perpetuity by the original card holder and prohibits their transfer to any other person. However, the bill does



allow a card to be used by a member of the card holder's immediate family in accordance with the Director's rules.

- Authorizes a person who loses a patriot discount card to obtain another card from the Director upon providing the same information required for issuance of an original card.

- Prohibits any person from using a patriot discount card except to obtain for the card holder or a member of the holder's immediate family a benefit to which the holder or family member is entitled under the conditions of the offer.

Definitions

(R.C. 173.09(A))

- Defines "service in the uniformed services," for purposes of the Program, as the performance of duty, on a voluntary or involuntary basis, in a uniformed service, under competent authority, and includes active duty, active duty for training, initial active duty for training, inactive duty for training, full-time National Guard duty, performance of duty or training by a member of the Ohio organized militia, and the period of time for which a person is absent from a position of public or private employment for the purpose of an examination to determine fitness to perform any type of duty described in this sentence (cross-reference to R.C. 5903.01(G)).

- Defines "uniformed services," for purposes of the Program, as the Armed Forces, the Ohio organized militia when engaged in active duty for training, inactive duty training, or full-time National Guard duty, the Commissioned Corps of the Public Health Service, and any other category of person designated by the President in times of war or emergency (cross-reference to R.C. 5903.01(H)).

Retail installment contracts

(R.C. 1317.06(A), (D), and (E) and 1317.061(A), (B), and (C))

- Prohibits a retail seller in connection with a retail installment contract that is entered into *on and after* the bill's effective date from charging or collecting from a retail buyer who is deployed on active duty interest or finance charges exceeding an annual percentage rate of 6%. This is in lieu of the statutorily set interest and finance charges, or alternative interest and finance charges, a seller and buyer can contractually agree to under continuing law. (See **COMMENT 1** for key definitions.)



- Defines "active duty," for this context, as active duty pursuant to (1) an Executive Order of the President of the United States, (2) an act of the Congress of the United States, (3) an order of the Governor, as its commander in chief, to the Ohio National Guard to perform any training or duty under certain circumstances, or (4) an order of the Governor to the Ohio organized militia to aid civil authorities in (a) executing the laws of this state, (b) suppressing insurrection, (c) repelling invasion, (d) acting in the event of a disaster within Ohio, or (e) promoting the health, safety, and welfare of Ohio citizens.¹

Termination of a motor vehicle lease

(R.C. 1349.02)

- Allows any person, or spouse of a person, who is deployed on active duty to terminate any motor vehicle lease that (1) is entered into *on or after* the bill's effective date and (2) is executed by or on behalf of the person who is deployed on active duty.

- Provides that termination of the motor vehicle lease is not effective until (1) 30 days after the person who is deployed on active duty or the person's spouse gives notice by certified mail, return receipt requested, of the intention to terminate the lease, and (2) the motor vehicle is returned to the lessor's custody or control.

- Prohibits, if the previous requirements are met, (1) a collection agency or lending institution from reporting any information about the nonpayment of the terminated lease to a consumer reporting agency for inclusion in the credit file or report of the person who is deployed on active duty, and (2) a consumer reporting agency from including any information about the nonpayment in that person's credit file or report. (See **COMMENT 2**.)

- Defines "active duty" in the same manner as described under "**Retail installment contracts**," above.

Termination of a cellular phone contract

(R.C. 1349.03)

- Allows any person, or spouse of a person, who is deployed on active duty to terminate a cellular phone contract that (1) is entered into *on or after* the bill's

¹ Items (3) and (4) are the orders covered by the bill's cross-references to R.C. 5919.29 and 5923.21, respectively.



effective date and (2) is executed by or on behalf of the person who is deployed on active duty.

- Provides that termination of the cellular phone contract is not effective until (1) 30 days after the person who is deployed on active duty or the person's spouse gives notice by certified mail, return receipt requested, of the intention to terminate the contract, and (2) unless the person who is deployed on active duty owns the phone, it is returned to the custody or control of the cellular telephone company.

- Prohibits, if the previous requirements are met, (1) a collection agency or cellular telephone company from reporting any information about the nonpayment of the terminated contract to a consumer reporting agency for inclusion in the credit file or report of the person who is deployed on active duty, and (2) a consumer reporting agency from including any information about the nonpayment in that person's credit file or report.

- Defines "active duty" in the same manner described under "**Retail installment contracts**," above.

Military leave of absence from institutions of higher education

(R.C. 1713.60, 3332.20, and 3345.53)

- Requires (1) private nonprofit institutions of higher education that hold a certificate of authorization from the Ohio Board of Regents, (2) state institutions of higher education, and (3) institutions that hold a certificate of registration from the State Board of Career Colleges and Schools to grant a student a "military leave of absence" from the institution while the student is serving on active duty, and for one year after the conclusion of that service, if the student is (a) a member of the National Guard or other Armed Forces reserve component and called to active duty, or (b) a member of the Armed Forces in a retired status and called to active duty. The student must not suffer an academic penalty as a result of the leave of absence.

- Requires these institutions, upon request of a student granted a military leave of absence not later than one year after the student's release from active duty to (1) *credit* tuition and fee charges toward a subsequent academic term in an amount that is 100% of what the student paid the institution for the academic term in which the student withdraws or (2) *refund* 100% of the tuition and fees paid for the academic term provided the student withdraws before the withdrawal date established by the institution. Items (1) and (2) are actions an institution must take at the election of a student granted a military leave of absence. However, for



purposes of item (2), if the student withdraws after the withdrawal date established by the institution, the student is ineligible for a refund.

- Defines the "withdrawal date" for purposes of the credit and refund provisions as the same date as that set by an institution for its general student population to withdraw from the institution or a course or class without academic penalty.

- Requires these institutions, upon request of a student granted a military leave of absence not later than one year after the student's release from active duty, to restore the student to the educational status attained prior to being called to active duty without loss of academic credits earned, scholarships or grants awarded, or (except as provided above) tuition and other fees paid prior to the commencement of active duty.

- If an institution fails to comply with the foregoing requirements, allows an aggrieved student to commence an action against the institution to enforce the requirements in the court of common pleas of the county in which the student resides or, in the case of a state institution of higher education, in the Court of Claims. If the student resides outside Ohio, the action instead must be commenced in the court of common pleas of the county in which the campus of the institution previously attended by the student is located or, in the case of a state institution of higher education, in the Court of Claims. The court may award reasonable attorney's fees and expenses if the student prevails in the action.

- Defines "active duty," as used in this context, as full-time duty in the active military service of the United States, including full-time training duty, annual training duty, and active state duty for members of the National Guard.

Determination of school district

(R.C. 3313.64(B)(1), (C), and (M))

- For purposes of continuing law that generally requires for admittance to kindergarten or first grade that a child (who is at least five years old but under 21 years old or who is a handicapped preschool child) be admitted to the schools of the school district *in which the child's parent resides* without payment of tuition, provides that a child whose parent is a member of the National Guard or a reserve unit of the United States Armed Forces and called to active duty, or a child whose parent is a member of the Armed Forces and ordered to a temporary duty assignment outside of the district, may continue to attend school in the district in which the child's parent lived before being so called or ordered, as long as the child's parent continues to be a resident of that district, and regardless of where the



child lives as a result of the parent's active duty status or temporary duty assignment.

- Specifies that the school district is not responsible for providing transportation for a child who lives outside of the district as a result of the parent's active duty status or temporary duty assignment.

- Defines "active duty" in the same manner as described under "**Retail installment contracts**," above.

Exemption from the Forcible Entry and Detainer Law

(R.C. 1923.02(E) and (F))

- Provides that the Forcible Entry and Detainer (Eviction) Law does not apply to, and thus precludes eviction actions under the Law involving, the residential premises of a tenant who is deployed on active duty or of any member of that tenant's immediate family if the tenant entered into the rental agreement *on or after* the bill's effective date. (See **COMMENT 3**.)

- Defines "active duty" in the same manner as described under "**Retail installment contracts**," above.

Life insurance policies

(R.C. 3915.05(C) and (N) and 3917.06(B) and (J))

- Requires the addition of language to individual and group life insurance policies that continues an insured's coverage, despite the insured's failure to pay premiums, if the insured is a reservist who has been called or ordered to active duty.²

- Provides that life insurance coverage remains in force during the period of the insured's active duty, and continues in force thereafter, if all premiums due on the policy are paid within 45 days after the end of the insured's period of active duty.

- Permits insurers otherwise to continue to enforce policy provisions relating to service in time of war.

² Current insurance law defines a "reservist" as a member of a reserve component of the United States Armed Forces and a member of the Ohio National Guard (R.C. 3923.381--not in the bill).

- Describes "active duty" in the same manner as under "Retail installment contracts," above.

Ohio Civil Rights Commission protections

(R.C. 4112.01(A)(11) and (22), 4112.02(A) to (H), 4112.021(B)(1) and (2), 4112.04(A)(7), (9), and (10) and (B)(4)(a) and (5), 4112.05(E), and 4112.08; and related R.C. 124.93(B), 125.111(A), 153.59, 153.591, 175.05(D)(1), 175.06(L), 176.06(D), 717.01(AA), 2927.03(A), 4117.19(B)(5), 4735.16(D), and 4735.55(A)(2))

- Adds "military status" (see below) to the covered characteristics that can be the basis for unlawful discriminatory practices under the prohibitions of the existing Ohio Civil Rights Commission (OCRC) Law.³ (See **COMMENT 4**.)

- Adds "military status" to the provisions of existing law that require the Commission to do all of the following:

- (1) Make periodic surveys of the existence of and the effect on the enjoyment of civil rights of discrimination on the basis of most of the covered characteristics.
- (2) Prepare, in cooperation with the state Department of Education, for Ohio public school students and all other Ohio residents, a comprehensive educational program that is designed to eliminate prejudice on the basis of most of the covered characteristics.
- (3) Receive progress reports from state agencies and political subdivisions regarding (a) affirmative action programs for the employment of persons against whom discrimination is prohibited by the OCRC Law or (b) any affirmative housing accommodations programs developed to eliminate or reduce an imbalance of a covered characteristic.

- Adds "military status" to the existing law's provisions that authorize the Commission, or local or statewide advisory agencies or conciliation councils the Commission creates, to study the problems of discrimination on the basis of most

³ Under existing law, covered characteristics include race, color, religion, age, sex, familial status, marital status, national origin, ancestry, and disability. It should be noted that not every covered characteristic listed in the last sentence is necessarily listed in a prohibition in the OCRC Law. For example, "familial status" is listed consistently in R.C. 4112.02, but not in R.C. 4112.021 (creditors and credit reporting agencies).

of the covered characteristics in all or specific fields of human relationships and to issue any publications and the results of investigations and research that, in its judgment, will tend to promote good will and minimize or eliminate discrimination on the basis of most of the covered characteristics.

- Provides that nothing in the OCRC Law's provisions that govern Commission hearings on alleged unlawful discriminatory practices authorizes or requires any person to observe the proportion that persons of any "military status" bear to the total population or in accordance with any criterion other than the individual qualifications of an applicant for employment or membership. The bill further provides that nothing in the OCRC Law can be considered as repealing any other Ohio law relating to discrimination because of "military status." Similar provisions exist in current law relative to discrimination on the basis of most of the covered characteristics.

- Amends statutes outside the OCRC Law that currently prohibit discrimination on the basis of one or more of the covered characteristics to add "military status" within their coverage.

- Defines "military status" as a person's status in "service in the uniformed services," which is defined in the same manner as set forth under "*Patriot Discount Card Program*," above.

Public utility stoppages

(R.C. 4933.12(F) and 4933.121(E))

- Prohibits a natural gas or gas company from stopping gas from entering, and prohibits an electric company from ceasing to provide electricity to, the residential premises of any residential consumer who is deployed on active duty.

- Defines "active duty" in the same manner as described under "*Retail installment contracts*," above.

COMMENT

1. The following are key definitions that relate to the bill's "*Retail installment contracts*" provisions (R.C. 1317.01--not in the bill):

(a) "Retail installment sale" includes every retail installment contract to sell specific goods, every consumer transaction in which the cash price may be paid in installments over a period of time, and every retail sale of specific goods to any person in which the cash price may be paid in installments over a period of



time. "Retail installment sale" does not include certain lease-purchase agreements or layaway arrangements.

(b) "Goods" means all things, including specially manufactured goods but not including the money in which the price is to be paid or things in action, that are movable at the time of identification for sale or identification to the contract for sale and that are purchased primarily for personal, family, or household purposes.

(c) "Specific goods" means goods, including related services, identified and agreed upon at the time a contract to sell or a sale is made.

(d) "Retail" means to dispose of specific goods to, or to acquire specific goods by, a person for use other than for purposes of resale.

(e) "Buyer" means a person who buys or agrees to buy goods or any legal successor in interest of that person. And, a "retail buyer" means a buyer who is a party to a retail installment sale or any legal successor in interest of that person.

(f) "Seller" means a person who sells or agrees to sell goods. And, a "retail seller" means a seller who is a party to a retail installment sale.

(g) "Retail installment contract" means any written instrument that is executed in connection with any retail installment sale and is required by or authorized by provisions of the Retail Installment Contract Law, and includes all such instruments executed in connection with any retail installment sale.

(h) "Consumer transaction" means a sale, lease, assignment, or other transfer of an item of goods, or a service, except certain professional transactions, to an individual for purposes that are primarily personal, family, or household. A "consumer transaction" does not include a lease-purchase agreement.

2. For purposes of the bill's "*Termination of a motor vehicle lease*" provisions, a "lending institution" includes specified savings and loan associations, banks, and other entities (R.C. 175.01(E)--not in the bill), and a "motor vehicle" means any vehicle, including mobile homes and recreational vehicles but excluding various construction equipment, farm machinery, and certain trailers and other machinery listed in the Motor Vehicle Law, that is propelled or drawn by power other than muscular power or power collected from overhead electric trolley wires (R.C. 4501.01(B)--not in the bill).

3. For purposes of the bill's "*Exemption from the Forcible Entry and Detainer Law*" provisions (R.C. 1923.01--not in the bill):



(a) "Tenant" means a person who is entitled under a rental agreement to the use or occupancy of premises other than premises located in a manufactured home park.

(b) "Residential premises" means a dwelling unit for residential use and occupancy and the structure of which it is a part, its facilities and appurtenances, and the grounds, areas, and facilities for the use of tenants generally or the use of which is promised a particular tenant.

4. The Ohio Civil Rights Commission Law currently prohibits various unlawful discriminatory practices by (a) employers, employment agencies, personnel placement services, labor organizations, and joint labor-management committees in employment or membership situations, (b) proprietors, employees, keepers, and managers of places of public accommodation in making the full enjoyment of these places available to the public, (c) any person in the sale or rental of housing accommodations or the extension of financial assistance for the purchase of those accommodations, (d) any creditor in the extension of credit for other types of purchases, (e) credit reporting agencies in maintaining information, and (f) educational institutions in connection with their treatment of individuals with a disability (R.C. 4112.02 and 4112.021; R.C. 4112.022--not in the bill). These unlawful discriminatory practices include, but are not limited to, discrimination on the basis of the race, color, religion, age, sex, familial status, marital status, national origin, ancestry, or disability of an employee; an applicant for employment, for membership, for the purchase, lease, or financing of housing accommodations, or for credit; or a person seeking access to a place of public accommodation (R.C. 4112.02(A) to (H) and 4112.021).

HISTORY

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